

(2015) 06 MAD CK 0474

In the Madras High Court

Case No : Writ Petition No. 17041 of 2015 and M.P. No. 1 of 2015

S. Jeevarathinam

APPELLANT

Vs

Chennai Metropolitan Water Supply and Sewerage Board and
Others

RESPONDENT

Date of Decision : 16-06-2015

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2015) 06 MAD CK 0474

Hon'ble Judges : T. Raja, J

Bench : Single Bench

Advocate : P. Ramesh, for the Appellant; M. Jothikumar, Advocates for the Respondent

Judgement

T. Raja, J—Mr.M.Jothikumar, learned counsel takes notice for respondents 1 and 2.

2. This writ petition has been filed seeking a writ of mandamus directing the Managing Director and Area Engineer of Chennai Metropolitan Water Supply and Sewerage Board, to receive process and consider and thereupon accord water and sewerage service connections to the petitioner's premises at No. L-1/1060, 36th Cross Street, Thiruvalluvar Nagar, Thiruvanmuyur Extension, Chennai-600 041, in accordance with law and without insisting on production of any Completion Certificate/No Objection certificate from any authority.

3. The case of the petitioner is that she is the owner of the property having an extent of 645 sq.ft. of land with old dilapidated building. In order to demolish and reconstruct the same, she has approached the Corporation of Chennai for obtaining planning permission, but, the Corporation of Chennai and the CMDA have stated that no application can be entertained by them for development of land below the minimum extent of 80 sq.mts. In view of the fact that the petitioner was not having 80 sq.mts. of land, she had commenced construction and completed the construction of ground + four floors of residential building for her own occupation. Thereafter, she has also obtained electricity service

connection for the said premises and the same has also been assessed for property tax by the Corporation of Chennai from the 1st half year of 2015-2016. Thereafter, she has also paid water and sewerage taxes also till date. Subsequently, the petitioner approached the XIII Area Engineer of CMDA, the 2nd respondent and submitted an application on 14.05.2015 for water and sewerage connections, but the 2nd respondent insisted upon the production of completion certificate/no objection certificate from the Corporation for considering her application. As the petitioner's request for water and sewerage connection was refused, she has come to this Court.

4. Learned counsel for the petitioner contended that first of all when the petitioner who is having only a minimum extent of 645 sq.ft. of land has approached the 1st respondent for obtaining planning permission, however, they refused the same on the ground that she is not having minimum extent of 80 sq.mts. Subsequently, when the petitioner has put up construction on the same and also properly assessed by the Property Tax Officer and when the construction of the building was over and is ready for occupation, the 2nd respondent cannot refuse permission to provide water and sewerage connection. Further, according to him, if there is no drainage connection, this will result in great inconvenience. So also, if there is no water connection, the petitioner would be put to great hardship and inconvenience.

5. Learned counsel for the petitioner further drawing the attention of this Court to the various orders passed by this Court in similar circumstances, submitted that in W.P. No. 3384 of 2012 this Court by order dated 27.03.2012 had directed the respondents to consider the case of the petitioners for grant of water and sewerage connections on their complying with the necessary requirements within a stipulated time. Further, he submitted that this Court, in another writ petition in W.P. No. 25662 of 2011 dated 11.04.2012, while disposing of the writ petition had directed the very same respondents 1 and 2 herein to consider the request made by the petitioner therein for grant of water and sewerage connections in respect of the premises in question, on the petitioner therein complying with the necessary requirements, as prescribed by the relevant provisions of law. It was also further observed that on such compliance by the petitioner therein, the first and second respondents shall consider the request made by the petitioner and pass appropriate orders thereon, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of that order, accordingly, he prayed for similar prayer.

6. At this point of time, Mr.M.Jothikumar, learned counsel appearing for respondents 1 and 2 submitted that the petitioner is admittedly having less than 80 sq.mts. of land and therefore, the 1st respondent cannot grant planning permission, however, since the petitioner has put up construction and property tax also has been assessed and paid, similar order may be passed, since, this Court, in similar circumstances having directed the respondents 1 and 2 to consider the case of the petitioners therein and pass appropriate orders for

providing grant of water and sewerage connections in respect of the premises in question on their complying with the necessary requirements, as prescribed by the relevant provisions of law and they have also passed orders, there is no impediment for the respondents for considering the prayer of the petitioner.

7. This Court considered the submissions made by the learned counsel on either side and perused the materials available on record.

8. It is not in dispute that the petitioner has purchased the property having an extent of 645 sq.ft. in Survey No. 219 Part of Thiruvanmiyur Village, Mylapore-Triplicane Taluk under Registered Sale deed dated 11.09.2013 from one B.Muthu. Subsequently, she has also approached the 1st respondent seeking planning permission, but the Corporation of Chennai, 1st respondent and the CMDA informed the petitioner that no application can be entertained by them for development of any land, if it is below the minimum extent of 80 sq.mts and the petitioner is admittedly having less than 80 sq.mts and therefore, she has put up construction. Subsequently, the property in question was also assessed to property tax by the Corporation, Chennai from the 1st half year of 2015-2016. Subsequently, electricity department also has granted electricity supply. Thereafter, when she has also approached the 2nd respondent by submitting an application on 14.05.2015 for water and sewerage connection, the 2nd respondent has asked for No Objection Certificate from the Corporation for considering the application.

9. In this regard, it is pertinent to mention that this Court, in identical circumstances, in W.P. No. 25662 of 2011 by order dated 11.04.2012 has held as follows:-

"4. It had also been submitted that the petitioner had also obtained electricity service connection for his premises and it has been assessed for property tax, by the Corporation of Chennai, for the second half of the year 2011-2012. The necessary water and sewerage tax is also being duly paid, till date. When the petitioner had approached the second respondent Board, by submitting an application, on 19.10.2011, for water and sewerage connections, the second respondent had insisted on the production of the Completion Certificate/No Objection Certificate, from the third respondent. In such circumstances, the petitioner had filed the present writ petition, before this Court, under Article 226 of the Constitution of India.

5. The learned counsel for the petitioner had produced before this Court, an order of this Court, dated 27.03.2012, made in W.P. No. 3384 of 2012, Paragraph 5 of the said order reads as follows:-

"5. Considering the above facts and circumstances and considering the order stated supra, I am inclined to direct respondents 1 and 2 to consider the case of the petitioners for grant of water and sewerage connection in accordance with law. The petitioners have to comply with the provisions as per law. On such compliance, it is open to the respondents 1 and 2 to consider the claim of the

petitioners for the said connection and the said exercise has to be carried out within a period of three weeks from the date of receipt of a copy of this order".

10. In the light of the above, as observed supra, since the petitioner has already completed construction of ground plus 4 floors of residential building and the same also having been assessed for property tax from the 1st half year of 2015-2016 by the Corporation of Chennai, the respondents 1 and 2 are directed to consider the request of the petitioner for grant of water and sewerage connections in respect of the premises in question, on complying with the necessary requirements by the petitioner, as prescribed by the relevant provisions of law, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

The writ petition is ordered accordingly. No costs. Connected miscellaneous petition is closed.